

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. 2:06-CR-147-WKW
)	
TAVARES MABSON)	

ORDER

This case is currently set for trial on August 7, 2006. For the reasons set forth below, the Court finds that the trial should be continued pursuant to 18 U.S.C. § 3161(h).

While the grant of a continuance is left to the sound discretion of the trial judge, *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the Court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs.

18 U.S.C. § 3161(c)(1). However, the Act excludes from the 70 day period any continuance based on “delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion,” § 3161(h)(1)(F), or on “findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.” § 3161(h)(8)(A).

The Court finds that, because one of defendant Mabson’s co-defendants has filed a Motion to Suppress in this case (*see* Doc. # 50), the requirements of 18 U.S.C. § 3161(h)(1)(F) have been met. *See United States v. Phillips*, 936 F.2d 1252, 1254 n.2 (11th Cir. 1991) (“Motions filed by a

codefendant trigger excludable time for all defendants.”).

Additionally, the Court finds that the ends of justice served by continuing this trial outweigh the best interest of the public and the defendant in a speedy trial. Mabson’s attorney, Susan James, has filed a Motion to Withdraw (Doc. # 65), citing “irreparable conflicts.” The defendant’s best interests in a speedy trial are outweighed by his right to the assistance of counsel in this case. As the trial in this case is currently set to begin in less than one week, the Court finds that a continuance is necessary in order to allow the magistrate judge to address the issue of counsel for Mr. Mabson.

Accordingly, it is ORDERED that the trial in this matter is continued from August 7, 2006, to the criminal term of court beginning on October 16, 2006, at 10:00 a.m.

DONE this the 2nd day of August, 2006.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE